

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEVEN S. BRAUNSTEIN,

Petitioner,

vs.

JAMES COX, *et al.*,

Respondents.

3:11-cv-00587-LRH-WGC

ORDER

This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which petitioner, a state prisoner, is proceeding *pro se*. On August 22, 2012, the court, among other things, dismissed all grounds asserted in the petition as procedurally defaulted. (ECF No. 37.) In its order, the court denied petitioner a certificate of appealability. (*Id.*) Thereafter, petitioner moved independently for a certificate of appealability. (ECF No. 41.)

In order to proceed with an appeal, petitioner must receive a certificate of appealability. 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22; 9th Cir. R. 22-1; *Allen v. Ornoski*, 435 F.3d 946, 950-951 (9th Cir. 2006); *see also United States v. Mikels*, 236 F.3d 550, 551-52 (9th Cir. 2001). Generally, a petitioner must make “a substantial showing of the denial of a constitutional right” to warrant a certificate of appealability. *Id.*; 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000). “The petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Id.* (quoting *Slack*, 529 U.S. at 484). In order to meet this threshold inquiry, the petitioner has the burden of demonstrating that the issues are debatable among jurists of reason; that a court could resolve the issues differently; or that the questions are adequate to

1 deserve encouragement to proceed further. *Id.*

2 The court has considered the arguments submitted by petitioner in his motion and concludes that
3 petitioner fails to satisfy the standard for issuance of a certificate of appealability. The court will
4 therefore deny petitioner a certificate of appealability.

5 **IT IS THEREFORE ORDERED** that petitioner's motion for a certificate of appealability (ECF
6 No. 41) is **DENIED**.

7
8 DATED this 18th day of October, 2012.



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10 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE